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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,347	12/08/2005	Herbert Botzelmann	095309.56170US	1709

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EXAMINER

COLLADO, CYNTHIA FRANCISCA

ART UNIT	PAPER NUMBER
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3618

MAIL DATE	DELIVERY MODE
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04/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/532,347	Applicant(s) BOTZELMANN, HERBERT	
	Examiner CYNTHIA F. COLLADO	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-13 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 14-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/22/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 11-13 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagura et al (US Patent No.6,648,085) in view of Belschner et al (US Patent No.7,057,306).

Regarding claim 11, An electrical power generating system for an electric vehicle which has at least one electric traction motor (fig 5, element 51), and a load-bearing structure with longitudinal supports(fig 4, element 12) the electrical power generating system (fig 5, element 30) comprising a first module (fig 5, element 42) that includes devices for preprocessing and metering of gases to be supplied to a fuel cell, a second module (fig 5, element 43) that includes the fuel cell, and a second module with the fuel cell (fig 5, element 43), the first and second modules both being secured in a container (fig 5, element 45) which can be inserted into a cavity accessible from the underside of the vehicle(shown in figure 4) and which is secured to the longitudinal supports of the vehicle by four retainers (fig 3, element 45c) mounted on the side walls of the container. Nagura lacks the teaching of the steps on the fuel cell of the necessary

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connection for gases, cooling, current and monitoring sensors; however these steps are routine measure for a person skilled in the art. Belschner discloses an electric vehicle with a fuel cell (fig 1, element 2) secured in a container (fig 2, element 20), where a current distribution module (fig 2, element 19) having distribution circuits (fig 2, elements 32 and 33) with fuses (fig 2, element 34) and a switch element (fig 2, element 27) for switching the distribution circuits on and off is secured to a side wall of the container (fig 2, element 20) and is connected via coupling elements (fig 2, elements 23 and 24) to the electrical outputs ((fig 2, elements 21 and 22) of the fuel cell and (fig 2, element 47) to lines to the electrical consumers in the electric vehicle.

Regarding claim 12, modified Nagura or Belschner discloses wherein, in an installed position, the first module, including the devices for preprocessing and metering gases to be fed into the fuel cell, is arranged at a front area of the container (Nagura fig 3, elements 42 and 43), relative to a direction of travel of the electric vehicle, and is screwed to the bottom of the container (Nagura fig 3, element 12).

Regarding claim 13, modified Nagura or Belschner discloses wherein the second module (Nagura, fig 3, element 43) has a housing that contains individual fuel cells with electrical connections (Nagura fig 3, element 40), and is connected to the container by two screws at a rear bottom area of the container via one holder on the left and one holder on the right, alongside a front face of the container (Nagura ,fig 3, element 45).

Regarding claims 17-20, if a prior art device, in its normal and usual operation, would be necessarily performed by the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324,231 USPQ 136 (Fed. Cir. 1986).

Allowable Subject Matter

Claims 14, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CYNTHIA F. COLLADO whose telephone number is (571)272-8315. The examiner can normally be reached on mon-fri 6-2.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/
Supervisory Patent Examiner, Art
Unit 3618

CFC
/Cynthia F Collado/
Examiner, Art Unit 3618